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April 18, 2011

## VIA ELECTRONIC FILING

The Honorable Jocelyn Boyd  
Chief Clerk and Administrator  
The Public Service Commission of South Carolina  
101 Executive Center Drive  
Columbia, South Carolina 29210

Re: • **Docket Number 1980-251-E**  
• **Spartanburg Water System**  
• **Petition for Determination of Eligibility for Capacity Credits, under Docket 1980-251-E**

Dear Ms. Boyd:

Enclosed for filing is Spartanburg Water System's Petition for Determination of Eligibility for Capacity Credits, under Docket 1980-251-E, Coversheet and Certificate of Service.

Counsel for the South Carolina Office of Regulatory Staff has been served, since this is an existing Docket. Please notify the undersigned if there is anything else you require.

Respectfully Submitted,

/S/\_\_\_\_\_  
Richard L. Whitt

RLW/cas

STATE OF SOUTH CAROLINA

(Caption of Case)

RE: The Petition of Spartanburg Water System for  
Determination of Eligibility for Capacity Credits,  
under Docket 1980-251-E

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 1980 - 251 - E

(Please type or print)

Submitted by: Richard L. Whitt

SC Bar Number: 62895

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda expeditiously

☒ Other: Routine

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input checked="" type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 1980-251-E**

**IN RE: The Petition of Spartanburg Water )  
System for Determination of Eligibility )  
for Capacity Credits, under Docket )  
1980-251-E )  
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)  
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**PETITION**

**INTRODUCTION**

Spartanburg Water System seeks a determination from the Public Service Commission of South Carolina (hereinafter as, "PSCSC"), that its generating facilities are eligible to receive Capacity Credits from Duke Energy Carolinas, LLC., (hereinafter as, "Duke Energy"), under Schedule PP (SC).

**PETITION**

1. Spartanburg Water System (hereinafter as, "Spartanburg Water") is headquartered in Spartanburg, South Carolina.
2. Spartanburg Water was chartered by the State of South Carolina more than 100 years ago.
3. Spartanburg Water System is governed by the Commissioners serving on the Commission of Public Works of the City of Spartanburg, South Carolina.
4. Spartanburg Water provides clean and safe water to more than 180,000 residents in 30 communities across Spartanburg County, including all of the City of Spartanburg.
5. Spartanburg Water operates two hydroelectric facilities, Simms #1 and Simms #2, each with a name plate capacity of 500 kW, (hereinafter together as, "Spartanburg Hydros").
6. The Spartanburg Hydros were constructed pre-1935 and are not currently licensed or regulated by the Federal Energy Regulatory Commission (hereinafter as, "FERC").



7. The Spartanburg Hydros are located on Municipal Reservoir No. 1, a water supply reservoir formed in 1926 by the impoundment of the South Pacolet River in Spartanburg County.

8. Spartanburg Water recently completed a third party condition assessment that details the rehabilitation work needed for the Spartanburg Hydros to continue operations for the next 25-35 years. The rehabilitation costs for the Spartanburg Hydros will be substantial and Spartanburg Water needs maximum recovery from energy generated, to offset substantial rehabilitation costs of over \$4 million, and to make the Spartanburg Hydros financially viable.

9. Spartanburg Water is taking actions preparatory to connection with Duke Energy's electric facilities. Spartanburg Water has consulted with Representatives of Duke Energy, concerning the connection of the Spartanburg Hydros with Duke Energy's electrical system.

10. In Spartanburg Water's discussions with Representatives from Duke Energy, it has been determined that Spartanburg Water does not nominally qualify for Capacity Credits and full avoided cost payments from Duke Energy, because Spartanburg Water's generating facilities are not "new capacity"<sup>1</sup> in accordance with the FERC's Order No. 69 in Docket No. RM79-55 and in accordance with the PSCSC's Order No. 81-214 in Docket No. 1980-251-E.

11. It is believed that Duke Energy will not oppose Spartanburg Water's request herein, for a determination by this Commission of Spartanburg Water's eligibility to receive Capacity Credits and full avoided costs.

12. The PSCSC has authority under PURPA, to find the Spartanburg Hydros are eligible for full avoided costs, including Capacity Credits.

13. The PSCSC has on occasion, held that an "old facility" can qualify for full avoided costs and Capacity Credits, if the receipt of Capacity Credits are essential to make the project economically viable (See, Order No. 85-651, issued in Docket No. 1980-251-E, on July 29, 1985).

14. Given the substantial rehabilitation costs described hereinabove, Spartanburg Water is entitled to receive Capacity Credits and full avoided costs for the Spartanburg Hydros.

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<sup>1</sup> *i.e.*, the generating facilities must be constructed after the date of enactment of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), to be considered new capacity.

**CONCLUSION**

Spartanburg Water, requests that the PSCSC inquire into this matter and find that the Spartanburg Hydros should receive full avoided costs from Duke Energy, including Capacity Credits, in order to make the generating facilities financially viable. This Commission should grant such other and further relief as it deems just and appropriate.

Respectfully Submitted,

/S/

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Timothy F. Rogers  
Richard L. Whitt

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508 Hampton Street, Suite 300  
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803-251-7442  
Attorneys for Spartanburg Water System

April 18, 2011  
Columbia, South Carolina

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA**

<b>The Petition of Spartanburg Water System for Determination of Eligibility for Capacity Credits, under Docket 1980-251-E</b>	) ) ) )	<b>Docket Number: 1980-251-E</b>
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I, Carrie A. Schurg, an employee of Austin & Rogers, P.A., certify that I electronically mailed a copy of the Correspondence, Cover Sheet, The Petition of Spartanburg Water System for Determination of Eligibility for Capacity Credits, under Docket 80-251-E and this Certificate of Service, in the above referenced matter as indicated below, via electronic mail as addressed below, on April 18, 2011.

**Nanette Edwards**  
**Chief Counsel and Director of**  
**Legal Services**  
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April 18, 2011  
Columbia, South Carolina

/S/ \_\_\_\_\_  
Carrie Schurg  
Austin & Rogers, P.A.